



June 13, 2002

Ms. Janis Kennedy Hampton  
Assistant City Attorney  
City of Bryan  
P.O. Box 1000  
Bryan, Texas 77805

OR2002-3215

Dear Ms. Hampton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 164264.

The Bryan Police Department (the "department") received a request for a copy of the supplemental report for case number 02-030409. You claim that the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

You claim that the information at issue is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.<sup>1</sup> Section 58.007 provides that juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. Section 58.007 states in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

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<sup>1</sup> Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Section 552.101 encompasses information protected by other statutes.

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). You state that the information at issue constitutes a law enforcement record concerning a juvenile. We note that section 58.007 applies when an offender is a "child," as defined in section 51.02(2) of the Family Code.<sup>2</sup> You have provided us with no information concerning the age of the offender at the time of the offense. However, we also note that the submitted information reveals that the accused individual was placed in a juvenile detention center. A "child" must be detained in a juvenile detention facility or other place suitable for the detention of children. *See* Family Code § 51.12. Furthermore, the information reflects that section 51.03(b)(3) of the Family Code was implicated by the conduct of the individual at issue. *See* Fam. Code § 51.03(b)(3) (concerning runaway conduct that indicates need for supervision). Finally, we note that section 51.04 of the Family Code provides that "[t]his title covers the proceedings in all cases involving the delinquent conduct or conduct indicating a need for supervision engaged in by a person who was a child within the meaning of this title at the time the person engaged in the conduct . . . ." Fam. Code § 51.04. Thus, we understand that the information at issue concerns juvenile conduct that is encompassed by section 58.007. Accordingly, we conclude that the department must withhold the information from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the

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<sup>2</sup> A "child" is defined in the Family Code as a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2).

governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

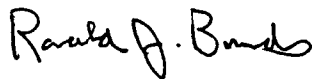
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/sdk

Ref: ID# 164264

Enc. Submitted documents

cc: Ms. Elizabeth Palermo  
c/o Janis Kennedy Hampton  
City of Bryan  
P.O. Box 1000  
Bryan, Texas 77805  
(w/o enclosures)